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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DENNIS COOPER,  
Plaintiff,

vs.

CFM PROPERTIES MANAGEMENT;  
and DOES 1 to 10,  
Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR  
VIOLATION OF:

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT, CAL CIV. CODE §§ 51 -  
52 et seq.;
3. CALIFORNIA'S DISABLED  
PERSONS ACT, CAL CIV. CODE §54 et  
seq.
4. CALIFORNIA'S UNFAIR  
COMPETITION ACT, CAL BUS & PROF  
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff DENNIS COOPER ("Plaintiff") complains of Defendants CFM  
PROPERTIES MANAGEMENT; and DOES 1 to 10 ("Defendants") and alleges as  
follows:

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**JURISDICTION AND VENUE**

1  
2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for  
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,  
5 arising from the same nucleus of operating facts, are also brought under California law,  
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,  
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real  
9 property which is the subject of this action is located in this district, San Bernardino  
10 County, California, and Plaintiff's causes of actions arose in this district.

**PARTIES**

11  
12 4. Plaintiff is a California resident with a physical disability with substantial  
13 limitation in his ability to walk. Plaintiff is paraplegic, suffers from immobility  
14 syndrome with chronic pain and requires the use of a wheelchair at all times when  
15 traveling in public.

16 5. Defendants are, or were at the time of the incident, the real property owners,  
17 business operators, lessors and/or lessees of the real property for a restaurant  
18 ("Business") located at or about 17021 Main St., Hesperia, California.

19 6. The true names and capacities, whether individual, corporate, associate or  
20 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
21 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
22 Court to amend this Complaint when the true names and capacities have been  
23 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such  
24 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
25 Plaintiff for the acts herein alleged.

26 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
27 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
28 Defendants, and/or was acting in concert with each of the other Defendants, and in doing

1 the things alleged herein was acting with the knowledge and consent of the other  
2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or  
4 failure to act by a defendant or Defendants, such allegations and references shall also be  
5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
6 and severally.

### 7 **FACTUAL ALLEGATIONS**

8 9. In or about August of 2022, Plaintiff visited the Business. The Business is a  
9 restaurant business establishment, which is open to the public, and is a place of public  
10 accommodation and affects commerce through its operation. Defendants provide parking  
11 spaces for customers.

12 10. While attempting to enter the Business during each visit, Plaintiff personally  
13 encountered a number of barriers that interfered with his ability to use and enjoy the  
14 goods, services, privileges, and accommodations offered at the Business. To the extent  
15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not  
16 limited to, the following:

- 17 a. Defendants failed to comply with the federal and state standards for  
18 the parking space designated for persons with disabilities. Defendants  
19 failed to provide the parking space identification sign with the  
20 International Symbol of Accessibility.
- 21 b. Defendants failed to comply with the federal and state standards for  
22 the parking space designated for persons with disabilities. Defendants  
23 failed to post required signage such as "Van Accessible," "Minimum  
24 Fine \$250" and "Unauthorized Parking."
- 25 c. Defendant failed to maintain the parking space designated for persons  
26 with disabilities to comply with the federal and state standards.  
27 Defendants failed to maintain the paint on the ground as required.  
28

1 d. Defendant failed to maintain the parking space designated for persons  
2 with disabilities to comply with the federal and state standards.  
3 Defendants failed to provide the access aisles with level surface  
4 slopes.

5 11. These barriers and conditions denied Plaintiff the full and equal access to the  
6 Business. Plaintiff wishes to patronize the Business. However, Plaintiff is deterred from  
7 visiting the Business because his knowledge of these violations prevents him from  
8 returning until the barriers are removed.

9 12. Based on the violations, Plaintiff alleges, on information and belief, that  
10 there are additional barriers to accessibility at the Business after further site inspection.  
11 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-  
12 Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

13 13. In addition, Plaintiff alleges, on information and belief, that Defendants  
14 knew that particular barriers render the Business inaccessible, violate state and federal  
15 law, and interfere with access for the physically disabled.

16 14. At all relevant times, Defendants had and still have control and dominion  
17 over the conditions at this location and had and still have the financial resources to  
18 remove these barriers without much difficulty or expenses to make the Business  
19 accessible to the physically disabled in compliance with ADDAG and Title 24  
20 regulations. Defendants have not removed such barriers and have not modified the  
21 Business to conform to accessibility regulations.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

24 15. Plaintiff incorporates by reference each of the allegations in all prior  
25 paragraphs in this complaint.

26 16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
27 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
28 the goods, services, facilities, privileges, advantages, or accommodations of any place of

1 public accommodation by any person who owns, leases, or leases to, or operates a place  
2 of public accommodation. *See* 42 U.S.C. § 12182(a).

3 17. Discrimination, *inter alia*, includes:

- 4 a. A failure to make reasonable modification in policies, practices, or  
5 procedures, when such modifications are necessary to afford such  
6 goods, services, facilities, privileges, advantages, or accommodations  
7 to individuals with disabilities, unless the entity can demonstrate that  
8 making such modifications would fundamentally alter the nature of  
9 such goods, services, facilities, privileges, advantages, or  
10 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 11 b. A failure to take such steps as may be necessary to ensure that no  
12 individual with a disability is excluded, denied services, segregated or  
13 otherwise treated differently than other individuals because of the  
14 absence of auxiliary aids and services, unless the entity can  
15 demonstrate that taking such steps would fundamentally alter the  
16 nature of the good, service, facility, privilege, advantage, or  
17 accommodation being offered or would result in an undue burden. 42  
18 U.S.C. § 12182(b)(2)(A)(iii).
- 19 c. A failure to remove architectural barriers, and communication barriers  
20 that are structural in nature, in existing facilities, and transportation  
21 barriers in existing vehicles and rail passenger cars used by an  
22 establishment for transporting individuals (not including barriers that  
23 can only be removed through the retrofitting of vehicles or rail  
24 passenger cars by the installation of a hydraulic or other lift), where  
25 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 26 d. A failure to make alterations in such a manner that, to the maximum  
27 extent feasible, the altered portions of the facility are readily  
28 accessible to and usable by individuals with disabilities, including

1 individuals who use wheelchairs or to ensure that, to the maximum  
2 extent feasible, the path of travel to the altered area and the  
3 bathrooms, telephones, and drinking fountains serving the altered  
4 area, are readily accessible to and usable by individuals with  
5 disabilities where such alterations to the path or travel or the  
6 bathrooms, telephones, and drinking fountains serving the altered  
7 area are not disproportionate to the overall alterations in terms of cost  
8 and scope. 42 U.S.C. § 12183(a)(2).

9 18. Where parking spaces are provided, accessible parking spaces shall be  
10 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every  
11 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in  
12 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA  
13 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall  
14 be van parking space. 2010 ADA Standards § 208.2.4.

15 19. Under the ADA, the method and color of marking are to be addressed by  
16 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California  
17 Building Code (“CBC”), the parking space identification signs shall include the  
18 International Symbol of Accessibility. Parking identification signs shall be reflectorized  
19 with a minimum area of 70 square inches. Additional language or an additional sign  
20 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A  
21 parking space identification sign shall be permanently posted immediately adjacent and  
22 visible from each parking space, shall be located with its centerline a maximum of 12  
23 inches from the centerline of the parking space and may be posted on a wall at the  
24 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

25 20. Moreover, an additional sign shall be posted either in a conspicuous place at  
26 each entrance to an off-street parking facility or immediately adjacent to on-site  
27 accessible parking and visible from each parking space. The additional sign shall not be  
28 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in

1 letters with a minimum height of 1 inch the following: "Unauthorized vehicles parked in  
2 designated accessible spaces not displaying distinguishing placards or special license  
3 plates issued for persons with disabilities will be towed always at the owner's expense..."  
4 *See* CBC § 11B-502.8, *et seq.*

5 21. Here, Defendants failed to provide the parking space identification sign with  
6 the International Symbol of Accessibility. In addition, Defendants failed to provide signs  
7 stating "Minimum Fine \$250" and "Van Accessible." Moreover, Defendants failed to  
8 provide the additional sign with the specific languages stating "Unauthorized vehicles  
9 parked in designated accessible spaces not displaying distinguishing placards or special  
10 license plates issued for persons with disabilities will be towed always at the owner's  
11 expense..."

12 22. For the parking spaces, access aisles shall be marked with a blue painted  
13 borderline around their perimeter. The area within the blue borderlines shall be marked  
14 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting  
15 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall  
16 be painted on the surface within each access aisle in white letters a minimum of 12 inches  
17 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §  
18 11B-502.3.3.

19 23. Here, Defendants failed to properly maintain the access aisles as there were  
20 faded blue lines painted on the parking surface.

21 24. Under the 1991 Standards, parking spaces and access aisles must be level  
22 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.  
23 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles  
24 shall be part of an accessible route to the building or facility entrance and shall comply  
25 with 4.3. Two accessible parking spaces may share a common access aisle. Parked  
26 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces  
27 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all  
28 directions. 1991 Standards § 4.6.3.







1 for each and every offense for the actual damages, and any amount that may be  
2 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
3 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any  
4 attorney's fees that may be determined by the court in addition thereto, suffered by any  
5 person denied the rights provided in Section 51, 51.5, or 51.6.

6 31. California Civil Code § 51(f) specifies, "a violation of the right of any  
7 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
8 shall also constitute a violation of this section."

9 32. The actions and omissions of Defendants alleged herein constitute a denial  
10 of full and equal accommodation, advantages, facilities, privileges, or services by  
11 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
12 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
13 51 and 52.

14 33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
15 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
16 damages as specified in California Civil Code §55.56(a)-(c).

### 17 **THIRD CAUSE OF ACTION**

#### 18 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

19 34. Plaintiff incorporates by reference each of the allegations in all prior  
20 paragraphs in this complaint.

21 35. California Civil Code § 54.1(a) states, "Individuals with disabilities shall be  
22 entitled to full and equal access, as other members of the general public, to  
23 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
24 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,  
25 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
26 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
27 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
28 places of public accommodations, amusement, or resort, and other places in which the

1 general public is invited, subject only to the conditions and limitations established by  
2 law, or state or federal regulation, and applicable alike to all persons.

3 36. California Civil Code § 54.3(a) states, “Any person or persons, firm or  
4 corporation who denies or interferes with admittance to or enjoyment of public facilities  
5 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
6 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
7 the actual damages, and any amount as may be determined by a jury, or a court sitting  
8 without a jury, up to a maximum of three times the amount of actual damages but in no  
9 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be  
10 determined by the court in addition thereto, suffered by any person denied the rights  
11 provided in Section 54, 54.1, and 54.2.

12 37. California Civil Code § 54(d) specifies, “a violation of the right of an  
13 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
14 constitute a violation of this section, and nothing in this section shall be construed to limit  
15 the access of any person in violation of that act.

16 38. The actions and omissions of Defendants alleged herein constitute a denial  
17 of full and equal accommodation, advantages, and facilities by physically disabled  
18 persons within the meaning of California Civil Code § 54. Defendants have  
19 discriminated against Plaintiff in violation of California Civil Code § 54.

20 39. The violations of the California Disabled Persons Act caused Plaintiff to  
21 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
22 statutory damages as specified in California Civil Code §55.56(a)-(c).

23 **FOURTH CAUSE OF ACTION**

24 **UNFAIR COMPETITION ACT**

25 40. Plaintiff incorporates by reference each of the allegations in all prior  
26 paragraphs in this complaint.  
27  
28

1 41. Defendants have engaged in unfair competition, unfair or fraudulent  
2 business practices, and unfair, deceptive, untrue or misleading advertising in violation of  
3 the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

4 42. Defendants engage in business practices and policies that create systemic  
5 barriers to full and equal access for people with disability in violation of state and federal  
6 law.

7 43. The actions and omissions of Defendants are unfair and injurious to  
8 Plaintiff, a consumer of the Business' goods and services. As a result of Defendants'  
9 unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not  
10 provided with goods and services provided to other consumers. Plaintiff seeks relief  
11 necessary to prevent Defendants' continued unfair business practices and policies and  
12 restitution of any money that Defendants acquired by means of such unfair competition,  
13 including profits unfairly obtained.

14 **FIFTH CAUSE OF ACTION**

15 **NEGLIGENCE**

16 44. Plaintiff incorporates by reference each of the allegations in all prior  
17 paragraphs in this complaint.

18 45. Defendants have a general duty and a duty under the ADA, Unruh Civil  
19 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
20 to the Plaintiff.

21 46. Defendants breached their duty of care by violating the provisions of ADA,  
22 Unruh Civil Rights Act and California Disabled Persons Act.

23 47. As a direct and proximate result of Defendants' negligent conduct, Plaintiff  
24 has suffered damages.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
27 Defendants as follows:  
28

1           1.     For preliminary and permanent injunction directing Defendants to comply  
2 with the Americans with Disability Act and the Unruh Civil Rights Act;

3           2.     Award of all appropriate damages, including but not limited to statutory  
4 damages, general damages and treble damages in amounts, according to proof;

5           3.     Award of all reasonable restitution for Defendants' unfair competition  
6 practices;

7           4.     Reasonable attorney's fees, litigation expenses, and costs of suit in this  
8 action;

9           5.     Prejudgment interest pursuant to California Civil Code § 3291; and

10          6.     Such other and further relief as the Court deems just and proper

11                               **DEMAND FOR TRIAL BY JURY**

12          Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby  
13 demands a trial by jury on all issues so triable.

14  
15 Dated: October 31, 2022

SO. CAL. EQUAL ACCESS GROUP

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18 By: /s/ Jason J. Kim  
19 Jason J. Kim, Esq.  
20 Attorneys for Plaintiff  
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